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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/806,721 | 07/11/2001 | Bruce Acres | 017753-132 | 7786 |

21839 7590 02/07/2005

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EXAMINER

LI, QIAN JANICE

ART UNIT PAPER NUMBER

1632

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

OFFICE COMMUNICATION

The reply filed on 11/4/04 is not fully responsive to the prior Office Action because of the following matter(s): The amended claims are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the originally claimed invention is drawn to a biological material that is a nucleic acid capable of expressing a therapeutic gene of interest in a target cell, whereas the amended claims are drawn to a composition comprising a compound in addition to the originally claimed material, wherein the recited compound encompasses any protein, nucleic acid, and small molecules that are capable of activation of T lymphocytes. Claims drawn to such a combination of biological materials would have been restricted if presented originally. Thus, the amended claims present a shift from the originally claimed invention. Since applicant has received more than one action on the merits for the originally presented invention, the Office does not permit a shift. See MPEP § 819 & 37 CFR 1.111.

The amendment filed on 11/4/04 presented only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03).

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Q. Janice Li** whose telephone number is 571-272-0730. The examiner can normally be reached on 9:30 am - 7 p.m., Monday through Friday, except every other Wednesday.

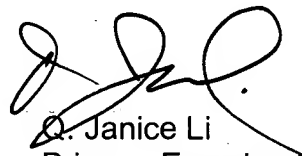
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Ram R. Shukla** can be reached on 571-272-0735. The fax numbers for the organization where this application or proceeding is assigned are **571-273-8300**.

Any inquiry of formal matters can be directed to the patent analyst, **Dianiece Jacobs**, whose telephone number is (571) 272-0532.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

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Q. Janice Li
Primary Examiner
Art Unit 1632



January 31, 2005